(3)

CF 1007

IN THE HIGH COURT OF JUDICATURE AT BILASPUR(CHHATTISGARH)

WRIT PETITION NO. 2735 /2003 **Single Bench**

UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

PETITIONER: Yadavram Jangde,s /o Late Pyarelal Jangade, aged about 32 years, r/o village Tengana Varpara, P.S. Gurur, District Durg, At present resident of Community Church Bhilai, Sector 6 Bhilai District Durg (Chhattisgarh)

Versus

RESPONDENTS: 1. State of chhattisgarh through Department of Home , D.K.S. Bhawan Raipur, Disrict Raipur (Chhattisgarh)

2. Sperintendent of Police , Bastar, District Bastar, Jagdalpur (Chhattisgarh)

3. Director General of Police, Bastar Range , Jagdalpur , District Bastar (Chhattisgarh)

P. R. No. 2565/03
Presented by Shri K.U. Dhekaley Adv.
Date 21.06.03

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P. NO. 2735 सन् 2003

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

05.09.2003

Shri N.L. Soni, counsel for the petitioner.

Shri Praveen Das, Panel Lawyer for the State.

Heard.

By this writ petition filed under Article 226/227 of the Constitution of India petitioner has challenged the order (Annexure P-3) passed by the District Superintendent of Police, Jagdalpur, by which petitioner's services were terminated after holding the enquiry.

The charges against the petitioner were that on 19.3.1998 he was found in an inebriated condition and again on 01.5.1998 when he was on sentry duty in the night between 9 to 12 p.m. he was found sleeping in such a condition. After completion of the enquiry the Superintendent of Police found the petitioner guilty for the misconduct and he terminated the service of the petitioner and in appeal the Inspector General of Police, Bastar range also affirmed the order passed by the S.P., Jagdalpurr.

During the course of arguments, Shri Soni learned counsel for the petitioner tried to impress upon the fact that in the departmental enquiry the Doctor has simply said that smell was coming out from the mouth of the petitioner. Under Article 226 of the Constitution of India, this Court cannot sit as an appellate Court and the power of judicial review on the administrative action is to the extent that if the finding is based on no evidence or disciplinary authority has acted contrary to the law and rules or principle of natural justice is

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

violated then the enquiry proceedings can be quashed. All these points have not been raised in the matter. Therefore there is no substance in the arguments of learned counsel for the petitioner. The second argument advanced by Mr.Soni is that the charge of misconduct against the petitioner was very minor and the petitioner was working as Police Constable since 1992 and he completed almost 6 years of service till the alleged misconduct and on both the counts he was simply found in a drunken condition and in addition, in one incident he was found sleeping while he was on duty. Therefore, looking to the nature of the alleged misconduct the quantum of punishment is harsh and disproportionate to the nature of misconduct. Again under the writ jurisdiction this Court cannot substitute its finding in the matter of punishment awarded by the disciplinary authority and the appellate authority which is within their domain and they have to take decision looking to the facts and circumstances of each and every case. The writ jurisdiction of this Court is extended only when the punishment awarded is such which is shocking the conscience of the Court. In the circumstances without going further in detail, it is appropriate to leave the quantum of punishment to the appellate authority.

Counsel for the petitioner submits that the petitioner has already served 6 years and he has 3 children and old parents and he will not be able to feed them without employment and at the age of 32 years he will not be able to get any other job. In the circumstances the petitioner is allowed to make a mercy petition and a detailed representation to the Inspector General of Police, Bastar

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

within a period of 30 days and on such petition being filed, it is for the Inspector General of Police, Jagdalpur who is the appellate authority to consider that petition/representation of the petitioner looking to the facts and circumstances of the case and to take appropriate decision.

With the direction/observation aforesaid, this petition is disposed of. Accordingly , I.A.8273/2003 also stands disposed of.

C.C. as per rules.

Sd/-
L.C.BHADOO
Judge